IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

OP.No. 8215 of 2003(C)
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PETITIONER:
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JOSEPH, KULATHUNGAL HOUSE,
MAMOODU KARA, MADAPPALLY,
CHANGANACHERRY.

BY ADV. SRI.JOHN VARGHESE

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, KOTTAYAM.

3. THE EXECUTIVE ENGINEER, P.W.D. ROADS DIVISION, PATHANAMTHITTA.

4. TAHSILDAR (R.R.), CHANGANACHERRY.

5. VILLAGE OFFICER, MADAPPALLY.

BY SHRI.K.P.PRADEEP, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 8215/2003

ORDER ON CMP NO.14315/2003 IN O.P.NO. 8215/2003

DISMISSED.

05/12/2007 SD/-(C.N.RAMACHADNRAN NAIR, JUDGE)

**APPENDIX**

PETITIONER'S EXHIBITS

P1 : COPY OF THE ORDER DATED 29/03/2000 ISSUED BY 3RD RESPONDENT TO THE PETITIONER.

P2 : COPY OF LETTER DATED 31/07/2001 ISSUED BY THE STATE BANK OF TRAVANCORE, PATHANAMTHITTA TO THE PETITIONER.

P3 : COPY OF THE NOTICE DATED 20/02/2003 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER.

// TRUE COPY //

PA TO JUDGE.

jg

**C.N.RAMACHANDRAN NAIR, J.**

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**O.P. No. 8215 of 2003**

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**Dated, this the 5th day of December, 2007**

**J U D G M E N T**

Petitioner is challenging recovery proceedings for recovery of balance licence fee payable by the petitioner under the toll agreement, executed by the petitioner with the respondents for collecting toll from vehicles passing through the Kulathoormuzhy bridge at Mallappally. The licence fee was payable in instalments during 2000-01. Even though the amount payable was Rs.1,50,000/-, petitioner has paid around Rs.1,00,000/-. According to the petitioner, petitioner has security deposit of Rs.18,000/-, which has to be adjusted towards demand. Petitioner is also challenging the demand of penalty and penal interest, which comes around Rs.35,000/-. Even though petitioner's challenge against licence fee with interest is not maintainable, as petitioner is bound to pay it as per the agreement, petitioner can be granted incentives in the form of cancellation of penalty and penal interest, provided, petitioner remits the balance arrears with interest @12% per annum for the belated payment. There will be direction to the 3rd respondent to adjust security deposit against balance licence fee payable at the end of the licence period, give credit for the

payments made by the petitioner and re-work balance liability and add interest thereon at 12% per annum. If petitioner pays the balance liability with 12% interest at least by 31/01/2008, then all other demands, namely penal interest and penalty and interest, if any, charged in excess of 12% per annum will stand cancelled. However, if petitioner does not settle liability as above by 31/01/2008, then the incentives granted herein will stand automatically vacated on default and in that event, respondents can proceed for recovery of entire demand treating the original petition as dismissed.

This original petition is disposed of as above.

**(C.N.RAMACHANDRAN NAIR, JUDGE)**

jg